

REMARKS

This application has been reviewed in light of the Office Action dated July 3, 2006. Claims 1-5, 7-22, 24-27, 30-54, 56-58, 61, and 66-77 are presented for examination. Claims 6, 23, 28, 29, and 59 have been cancelled without prejudice or disclaimer. The claims have been amended as indicated above to define more clearly what Applicant regards as the invention. Claims 76 and 77 have been added to provide a more complete scope of coverage. Claims 1, 3, 5, 33, 58, 61, 66, 69, 70, 71, 74, and 75 are in independent form. Favorable reconsideration is requested.

The Examiner states that the “claims recite limitations using conditional or optional language” and suggests that these limitations therefore may be ignored. (Office Action at page 2). However, the language referred to by the Examiner is not “language that suggests or makes optional.” Rather, these limitations indicate the conditions under which a claimed step is performed, i.e., the step is performed “if” or “when” a certain condition exists. This type of claim language is ubiquitous in U.S. patent practice. Accordingly, Applicant respectfully requests that the Examiner consider all of the words in the claims in judging their patentability, as the patent law and rules require. See, M.P.E.P. § 2143.03.

Claims 1-59, 61, and 63-75 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Specifically, the Examiner takes issue with the limitation that the user defined parameters are not used to perform a search for the content. These rejections are traversed for the following reasons.

The relevant question under 35 U.S.C. § 112, second paragraph is “whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity.” M.P.E.P. § 2173.02. “Definiteness of claim language must be

analyzed, not in a vacuum, but in light of: (A) The content of the particular application disclosure; (B) The teachings of the prior art; and (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.” Id.

The Examiner states that “it is not clear to one of ordinary skill how Applicant’s system can prevent a user from entering user defined parameters and then using the same parameters to query a database.” (Office Action at page 3). However, there is nothing in Applicant’s disclosure or the teachings of the prior art to support this disingenuous interpretation, nor is there any reason to believe that this is the interpretation that would be reached by one of ordinary skill in the art.

As one of ordinary skill in the art would readily appreciate, the claims recite that the parameters are not used to perform a search for the content, i.e., the content selected by the user, so it is nonsensical to suppose that the user would use these parameters to perform a search for content that has already been selected. Moreover, one of the objectives of the invention is to enable the user to set user defined parameters and proceed with uninterrupted retrieval of fee-based content. Re-entering these parameters after the content has been selected would be contrary to this objective and, furthermore, would serve no useful purpose.

Nevertheless, the claims have been amended to recite that the user-defined parameters are not used by the information appliance to perform a search for the content, which forecloses the interpretation put forth by the Examiner.

Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph is respectfully requested.

Claims 1-24, 27-37, 39-44, 46-53, 57-59, 61, and 66-75 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,892,900 (“Ginter”). Claims 25, 26, 54, and 56 were rejected as obvious over Ginter in view of U.S. Patent No. 5,878,141 (“Daly”). Claim 38 was rejected as obvious over Ginter in view of U.S. Patent No. 5,500,513 (“Langhans”). Claim 45 was rejected as obvious over Ginter in view of U.S. Patent No. 5,892,900 (“Casement”).

Generally speaking, the present invention provides a convenient way of accumulating and processing payments for electronic content. More specifically, the invention provides systems and methods by which a user can seamlessly obtain content requiring a fee, such that numerous fees may be accumulated at a third party server and billed to the user’s credit or debit card, rather than billing each individual transaction to a credit or debit card, which would result in delay due to the conventional credit/debit transaction initiation and approval processes.

Claim 5, for example, is directed to a method for accessing content over a network. The method includes:

- (a) establishing an account at a third party billing server (see, e.g., specification at page 30, lines 10-15);
- (b) storing, at the third party billing server, user account information including an account identifier generated by the third party billing server, an account balance and at least one of a credit card number and a debit card number associated with an account held by the user, apart from the account established at the third party billing server (see, e.g., specification at page 14, last paragraph);

(c) storing account information on a user's information appliance, including an account identifier of the user and at least one predefined user-preference (see, e.g., specification at page 18);

(d) accessing, through the network, selected content that requires a fee to be accessed, based on the at least one predefined user-preference, specified by the user, pre-authorizing payment for content requiring a fee, and without obtaining further user input specifying a payment authorization or a payment method selection prior to the accessing (the at least one predefined user-preference is not used by the user's information appliance to perform a search for the content and the selecting of the content is not dependent on the at least one predefined user-preference);

(e) retrieving the account information stored on the information appliance when the selected content requires a fee;

(f) transmitting the account identifier and an amount of the fee to a third party billing server (see, e.g., specification at page 18); and

(g) accumulating fees to account for all those incurred for accessing each selected content accessed in the accessing.

(h) billing the user for the accumulated fees through the credit card number or debit card number associated with the account held by the user, apart from the account established at the third party billing server (see, e.g., specification at page 43, first full paragraph).

The cited references do not teach or suggest this combination of features.

Ginter relates to a system for controlling the distribution and use of electronic content by creating a virtual distributed environment (VDE), which is a

combination of hardware and software components that create a desired rights environment for the use of electronic content.

Ginter does not teach or suggest establishing an account at a third party billing server and storing, at the third party billing server, user account information including an account identifier generated by the third party billing server, an account balance and at least one of a credit card number and a debit card number associated with an account held by the user, apart from the account established at the third party billing server, as recited in Claim 5. Nor does Ginter teach or suggest storing account information on a user's information appliance, including an account identifier of the user and at least one predefined user-preference, retrieving the account information stored on the information appliance when the selected content requires a fee, and transmitting the account identifier and an amount of the fee to a third party billing server, as further recited in Claim 5. Nor does Ginter teach or suggest accumulating fees to account for all those incurred for accessing each selected content and billing the user for the accumulated fees through the credit card number or debit card number associated with the account held by the user, apart from the account established at the third party billing server, as further recited in Claim 5.

The Examiner cites column 290, line 60, through column 291, line 16 of Ginter as disclosing "a user paying for content using a credit or debit card (e.g. VISA), hence Ginter et al. discloses third party providers that accumulate fees." (Office Action at page 6, citations omitted). However, the payments discussed in Ginter are merely conventional credit or debit card payments. By contrast, as is clear from the features discussed above, Claim 5 is directed to a method for accumulating fees at a third party

server and then billing the accumulated fees to a credit or debit card. Ginter simply does not contemplate such a configuration.

Independent Claims 1, 3, 33, 58, 61, 66, 69, 70, 71, 74, and 75 recite features similar to those discussed above with respect to Claim 5 and therefore are also believed to be patentable over Ginter for the reasons discussed above.

A review of the other cited references has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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